

AMENDMENTS TO THE DRAWINGS

Please replace the drawing sheets of Figs. 1-4 with the attached Replacement Sheets.

Attachment: Replacement Sheets (4) (both a marked-up version and a clean version)

REMARKS

Claims 7-12 are all the claims pending in the application. By the present Amendment, Applicants have added new claim 12. It is respectfully submitted that the pending claims define patentable subject matter.

Statement of Substance of Interview

Applicants thank the Examiner for the Interview of June 15, 2010. During the Interview, the parties discussed the objections to the specification, the rejection of claims 7-11 under 35 U.S.C. § 112, first paragraph, and the rejections of claims 7-11 under 35 U.S.C. §§ 102 and 103 over Cammarota (and thereby Timmons by incorporation by reference).

With regard to the objections to the drawings, the parties agreed that amending the drawings so that the reference numerals for the cross-sections are denoted by Roman numerals, and amending the specification in a similar manner, should overcome the objection to the drawings. Furthermore, the parties agreed that amending the claims to include a water content indicator layer should overcome the objection of the specification relating to the claims being commensurate with the detailed description.

With regard to the rejection of the claims under 35 U.S.C. § 112, first paragraph, the parties agreed that amending the claims to include a water content indicator layer would overcome this rejection.

With regard to the rejection of the claims under 35 U.S.C. § 102, Applicants' representative argued that certain elements from one embodiment (in Cammarota) and other elements from a different embodiment (in Timmons) cannot properly be combined to form a rejection under 35 U.S.C. § 102. The Examiner disagreed.

The Examiner took the position that the binder of Timmons corresponds to the claimed hydrophilic resin coating layer and the particles dispersed therein correspond to the claimed information mark layer.

The parties discussed a possible amendment of the claims to define the resin coating layer and the information mark layer as being strata in order to clarify that these two layers are separate and distinct layers. No agreement was reached with regard to the rejections under 35 U.S.C. §§ 102 and 103.

Objections

Applicants have herein submitted Replacement Drawings, in which a number of the reference numerals that were letters have been replaced. Additionally, certain lead lines have been shown as dashed, as suggested by the Examiner. Furthermore, the specification has been amended to be consistent with the presently submitted drawings. Accordingly, reconsideration and withdrawal of the objection to the drawings are respectfully requested.

The specification is objected to due to a number of minor informalities. Applicants have herein submitted a Substitute Specification with markings showing all of the changes, and also a clean version of the Substitute Specification. No new matter has been added. The amendments to the specification are believed to overcome the objections to the specification. Thus, reconsideration and withdrawal of the objection to the specification are respectfully requested.

Claims 7-11 are objected to minor informalities. Applicants have herein amended claim 11 to overcome the objection.

Claims Rejections - 35 U.S.C. § 112

Claims 7-11 are rejected under 35 U.S.C. § 112, second paragraph as allegedly being indefinite. Applicants have amended claim 11 to provide proper antecedent basis for the side of the absorbent, and have reworded the last five lines to clarify the features therein. Furthermore, Applicants have amended claim 11 to recite a water content indicator coating layer as suggested by the Examiner during the Interview for overcoming this claim rejection. In view of the amendments, reconsideration and withdrawal of the rejection are requested.

Claims Rejections - 35 U.S.C. § 102/103

Claims 11 and 9 are rejected under 35 U.S.C. § 102(b) as alleged anticipated by, or alternatively under 35 U.S.C. § 103(a) as alleged obvious over, Cammarota et al. (U.S. 6,307,119; hereinafter “Cammarota”) and thereby, by incorporation, Timmons (U.S. 4,022,211). Applicants respectfully traverse this rejection.

Initially, it is noted that the rejection under 35 U.S.C. § 102 is improper because an anticipation rejection cannot be based on merely picking and choosing multiple, distinct teachings from a single reference that could somehow be combined to arrive at the claimed invention (*see* Net MoneyIn, 545 F.3d at 1371; *see also* In re Arkley, 455 F.2d at 587).

Claim 11 recites (with emphasis added):

An absorbent article comprising, in integral formation, a liquid permeable top sheet, an absorbent, a water vapor permeable waterproof sheet, and a liquid impermeable back sheet in this order, the absorbent article further comprising:

a hydrophilic resin coating layer provided on a first portion of the water vapor permeable waterproof sheet and between the water vapor permeable waterproof sheet and the absorbent;

a water content indicator coating layer provided between the hydrophilic resin coating layer and the absorbent;

wherein a permeability of the first portion of the water vapor permeable waterproof sheet and the hydrophilic resin

coating layer is lower than a permeability of a second portion of the water vapor permeable waterproof sheet on which the hydrophilic resin coating layer is not provided on the water vapor permeable waterproof sheet.

The Examiner alleges that Cammarota discloses a liquid permeable top/upper-most sheet 42, an absorbent 44, a water vapor permeable waterproof sheet 116, and a liquid impermeable back sheet 114 in this order (Office Action, page 8). The Examiner alleges that Timmons discloses a binder which is water-soluble and that this component corresponds to the claimed hydrophilic resin coating layer. The Examiner alleges that an area in which the binder is located adds extra thickness and therefore there inherently is a lower permeability at the coated portion than at the uncoated portion due to the increased thickness (Office Action, page 10).

Cammarota discloses that the outer cover 40 can include a liquid permeable outer layer and a liquid impermeable inner layer (column 15, lines 19-21). Accordingly, the back sheet 114 of Cammarota is not a liquid impermeable back sheet.

Furthermore, Timmons merely discloses a pattern of a water soluble coloring agent which may be applied in the form of a water-soluble dye in a water-soluble polyvinyl alcohol binder (column 3, lines 2-4), or may be in the form of an aqueous dispersion in association with a water-soluble binder (column 3, lines 30-34). In other words, Timmons discloses the coloring agent particles disposed within the binder.

The Examiner takes the position that the binder corresponds to the claimed resin coating layer and that the color agent particles which are dispersed within the binder correspond to the claimed water content indicator coating layer. Applicants respectfully disagree with this position.

The dispersed particles of the coloring agent are disposed within the alleged resin coating layer and therefore cannot be “provided between the hydrophilic resin coating layer and the absorbent” (emphasis added).

Accordingly, claim 11 is patentable because Cammarota and Timmons do not disclose or suggest all of the features recited therein.

Claim 9 is patentable at least by virtue of its dependency on claim 11.

Claim 8 is rejected under 35 U.S.C. § 103(a) as allegedly being obvious over Cammarota (and thereby Timmons).

As discussed above, Cammarota and Timmons do not disclose or suggest all of the features of claim 11. Therefore, claim 8 is patentable at least by virtue of its dependency on claim 11. Furthermore, because the binder of Timmons, i.e., the alleged resin coating layer, is the adhesive that binds the coloring agent, i.e., the alleged water content indicator coating layer, the length and width of the these two alleged “layers” would be identical. That is, the binder with the coloring agent disposed therein forms one length and width.

In addition, the Examiner alleges that there is no criticality of the claimed range of 1-20 micrometers and that it would have been obvious to discover the optimum or workable range (Office Action, page 12).

However, before the Examiner can allege that it would have been obvious to optimize a variable, that particular variable must first be recognized as a result-effective variable by the prior art (M.P.E.P. § 2144.05(II)). The thickness of the binder, i.e., the alleged resin coating layer, is not mentioned or even remotely recognized in Timmons as being effective to produce a particular result, and in no way suggests that adjusting the thickness of the binder would effect the vapor permeability. The binder is used merely to adhere the coloring agent and not to adjust

or provide a particular vapor permeability. Accordingly, the Examiner's position that it would have been obvious to have optimized the thickness of the binder, i.e., the alleged resin coating layer, is improper.

Therefore, Cammarota and Timmons do not disclose or suggest the features recited in claim 8 and it is submitted that claim 8 is separately patentable over the cited art for the features recited therein.

Claim 7 is rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Cammarota (and Timmons) in view of Ikeda et al. (U.S. 2003/0148091; hereinafter "Ikeda").

Ikeda does not remedy the deficiencies of Cammarota and Timmons in that Ikeda does not disclose or suggest the claimed layers or sheets in the claimed order, or does not disclose or suggest the claimed resin coating layer.

Accordingly, claim 7 is patentable at least by virtue of its dependency on claim 11.

Claim 10 is rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Cammarota (and Timmons) in view of Kolfta et al. (U.S. 2003/0154904; hereinafter "Kolfta") and Yubuki et al. (U.S. 2002/0061595; hereinafter "Yubuki").

Neither Kolfta nor Yubuki supply the deficiencies of Cammarota and therefore claim 10 is patentable at least by virtue of its dependency on claim 11.

Added Claim

Applicants herein add claim 12 which depends from claim 11. The features of claim 12 correspond to the amendment discussed during the interview. It is submitted that claim 12 is patentable over the cited art by virtue of its dependency and for the features recited therein. No new matter has been added.

Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

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